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## **8.000 CABLE TELEVISION**

### **8.213 Hearings**

The Board shall set petitions relating to applications for certificates of public good for hearing (if a hearing is required under 30 V.S.A. § 231) within a reasonable time. If hearings are held, at least one hearing shall be held in the county of the proposed service area to afford opportunity for public comment.

### **8.313 Policy on Expansion into Unserved Areas**

Each cable company shall file a statement of the company's policy on expansions of service into unserved areas as a tariff for the Board's approval. Each such policy must at a minimum conform to the provisions of this section.

- (A) If a policy on expansion into unserved areas requires contributions-in-aid-of-construction, then that policy shall also allow for the rebating or reallocation of such contributions among original and new subscribers. Whenever more than one customer is connected to a customer-financed line extension, total contributions-in-aid-of-construction shall be computed to yield to the utility not more than the total cost of extending or expanding service to the new customer(s), less the service drop credit(s). Amounts to be collected from new customers connecting to customer-financed lines shall be computed as follows:
- (1) For a period of seven (7) years from the completion of construction of a line extension, contributions from new customers connecting to said lines shall be based upon an equal sharing of the full cost of construction of the subject line extension as if the new customers were original participants.
  - (2) For a period of seven (7) years from the completion of construction of a line extension, contributions calculated under section 1 above shall be reimbursed to the original participants based upon an equal sharing of the full cost of construction of the subject line extension as if the new customers were original participants, except that:
    - (a) All line extension reimbursements shall be paid by cable companies to the current owners of the dwellings or structures served by line extensions that are subject to reimbursement payments for new connections, and shall be paid as a cash rebate or, if to a current subscriber, cash or a credit, at the subscriber's choice.
    - (b) Reimbursements may be made at any time, but a final reallocation and reimbursement shall be conducted at the end of the seven (7)-year period.

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- (c) No reimbursement shall be required if the computed amount is less than \$100.
- (3) For purposes of this Rule, when calculating contributions under paragraph 1 or reimbursements under paragraph 2, the original full cost of construction may be depreciated at a straight-line rate of up to 50% at the end of the seven (7)-year period. Depreciation for these purposes, if any, shall be calculated similarly for both contributions and reimbursements and applied as of the date of the connection of new customer(s).
- (4) As an alternative to issuing rebates under this section, a cable company may reduce the initial subscriber contribution-in-aid-of-construction based on the number of residential and non-residential premises passed within 500 feet of the proposed cable facilities that are not participating. For non-participating premises, each non-seasonal residential premise passed shall be counted as 1/4 of a verified subscriber, each seasonal residential premise passed shall be counted as 1/10 of a verified subscriber, each commercial or institutional lodging (such as a hotel, motel, or nursing home) shall be counted as 3/4 of a verified subscriber, and each non-residential premise passed shall be counted as 1/9 of a verified subscriber. If a cable company chooses to offer this rebate alternative, it shall include such an alternative in its tariff and no rebate shall be required. If this alternative is to be used, the company estimates under "F" below shall clearly indicate that no rebates will be issued. The following additional conditions apply only to this rebate alternative:
  - (a) If a verified subscriber commits to take service from a cable company for an additional commitment period of up to 18 months, then the company shall reduce the verified subscriber's contribution by the value of the additional commitment, exclusive of taxes and fees.
  - (b) If a verified subscriber commits to provide to the cable company, over the term of the two-year commitment period, a minimum annual amount of qualifying revenues up to 150% of the average annual revenue per subscriber, then the cable company shall reduce the verified subscriber's contribution by the incremental revenue above the average annual revenue per subscriber, exclusive of taxes and fees. Qualifying revenues shall include revenues from all services provided to the subscriber over the facilities that provide the cable service, except revenues paid by the subscriber to non-affiliated third parties.

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(B) Any cable company for which the expansion of service into unserved areas requires the extension of lines or cables to the customer location shall provide a line extension policy compliant with this subsection.

- (1) Any line extension policy that requires contributions-in-aid-of-construction shall not require a contribution in excess of the amount required by the following formula:

$$A = (C_T / N) * (1 - (N / (H * L)))$$

where A is the dollar contribution from each new customer;  $C_T$  is the actual cost of the line extension; N is the number of verified subscribers on the extension who will be making the contribution in aid of construction; L is the length of the extension in miles; and H is a number designated by the cable company's tariff representing the number of verified subscribers per mile, counting all the miles proposed on the extension, above which the company will not require a contribution-in-aid-of-construction.

- (2) No line extension policy filed in accordance with this section shall specify a value for H in excess of a maximum number established by the Board. The maximum value for H for straightforward, aerial construction shall be 16 for a period of at least three years after the adoption of this rule, and thereafter may be re-set by the Board after notice and opportunity for comment not more frequently than once every three years.
- (3) Upon request of a person in an unserved area within a cable company's franchise area, the cable company shall provide an estimate of the cost of a line extension. The final customer contribution required shall not be more than 10% in excess of the final estimate provided.
- (4) Unless otherwise requested, cable companies shall develop cost estimates assuming a standard aerial drop of 300 feet from the pole for each dwelling serving each verified subscriber. Each verified subscriber shall be responsible for its own additional costs for installation of any nonstandard service drop unless participating verified subscribers and the cable company agree to divide the cost of non-standard service drops among the group of verified subscribers requesting service.

(C) Any company that provides cable television services over facilities that it uses to provide telecommunications or other non-cable-television services and that does not require the construction of new cables or lines in order to expand service into unserved areas shall provide a policy on expansion of cable service into unserved areas conforming to this subsection.

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- (1) Any expansion-of-service policy shall provide for a maximum ratio of verified subscribers to served lines or premises in a project area that defines when the cable company shall provide an expansion of service without requiring customer contribution-in-aid-of-construction. This ratio shall be not more than a default ratio established by the Board after notice and opportunity for comment, and which, after it is first established, may be re-set by the Board after notice and opportunity for comment not more frequently than once every three years.
- (2) A "served line or premise" is a line over which or a premise to which a company already provides any non-cable retail or wholesale service using facilities that can also be used to provide cable services. A company may make calculations under this subsection using either served lines or served premises, but shall use exclusively one or the other. A "project area" is an area that can be upgraded to offer cable services, including investments in facilities in common to the area that would benefit from the upgrade. A project area shall be defined at the request of a customer or in advance by the company by reference to its customary engineering practices.
- (3) When a verified subscriber or group of verified subscribers requests an expansion of service into a project area, the cable company shall calculate the cost of the expansion, and calculate a cost per verified subscriber making the request by dividing the cost of the expansion by the number of verified subscribers participating in the request. When calculating the cost of the expansion, the cable company shall multiply  $C_A$ , the average cost per served line or premise, specified in the company's tariff, by the number of served lines or premises in the project area. However, the company shall reduce the number of served lines or premises by the number of verified subscribers divided by  $H$ , the ratio of verified subscribers to served lines or premises, above which the company does not require a contribution-in-aid-of-expansion, specified in the company's tariff. This calculation can be summarized by the following formula:

$$A = (C_A * (L - (N / H)) / N)$$

where  $A$  is the dollar contribution from each new customer;  $C_A$  is the average cost per served line or premise to expand cable service in a project area, specified in the company's tariff;  $N$  is the number of verified subscribers in the project area who will be making the contribution-in-aid-of-expansion;  $L$  is the total number of lines or customer premises in the project area; and  $H$  is the ratio of verified subscribers per served line or premise, above which the company will not require a contribution-in-aid-of-expansion.

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- (D) A cable company may specify more than one value for C or H in its tariff, based on the number of miles, lines, or premises in a proposed expansion, if there are significant differences in cost based on size or other relevant cost factors of the proposed expansion, including underground excavation.
- (E) With a cable company's annual report, the company shall submit a report of the number of additional miles and homes served as a result of its service expansion policy.
- (F) Whenever a prospective subscriber or subscribers located in a service expansion area requests a site survey to determine the cost of bringing cable service, the cable company shall conduct a survey and inform each of the prospective subscribers of the contribution-in-aid-of-construction or expansion that may be charged. The cable company shall support the designated community organizer with appropriate information such as an explanation of how the company's line extension policies work, product information, and construction time frames. The cable company shall provide preliminary estimates within 15 business days of receiving the requests. The cable company shall provide a final estimate within 30 days of receiving written approval of the preliminary estimates by all included subscribers. Where site surveys involve a non-conventional extension of more than three (3) ends of line and twenty (20) verified subscribers, the company may have thirty (30) days to provide an initial estimate and sixty (60) days to provide a final estimate.
- (G) The cable company shall apply for any necessary pole attachment agreements within thirty (30) days of its receipt of the contribution-in-aid-of-construction from all verified subscribers, and shall make available cable service within ninety (90) days from the receipt of the pole attachment agreements and other necessary permits or easements, subject to weather, Force Majeure, and the performance of make ready.
- (H) Nothing in this section shall require a cable company to expand service in the absence of a request from one or more verified subscribers. Cable companies shall maintain maps of serviceable areas.
- (I) No cable company shall be required to overbuild another company, or provide cable service to locations where another cable company has already constructed facilities or to which another cable company is required by rule or order of the Board to construct facilities, or to locations where another cable company has made a binding commitment to construct facilities within the next eighteen (18) months.

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- (J) Every cable company shall file proposed changes to its line extension policy with the Board and the Department of Public Service at least forty-five (45) days prior to the effective date of the change, except for changes that only reduce required customer contributions-in-aid-of-construction, which may take effect immediately upon notice to the Board and the Department.
- (K) For the purposes of this section, a "verified subscriber" is a person whose residence or business is in an unserved area who makes a binding commitment to purchase cable service from a cable company for a minimum period of two years, or a lesser period required by the cable company, or pays an amount equivalent to one year of service in advance.
- (L) The provisions of this section supercede and remove any requirement to perform "house count surveys" contained in any certificate of public good previously issued by the Board.